

DoD Comments on NJ DEP's Draft White Papers

DI001—On-Road Vehicle Idling

Comment: Even though military tactical vehicles are typically used in non-road operations, there are instances in which military tactical vehicles are used in on-road operations as well, such as in emergency response operations. If DEP intends to adopt regulations to further restrict on-road vehicle idling, it is recommended that DEP include an exemption for military tactical vehicles. Imposing idling restrictions on military tactical vehicles during emergency response operations would hinder the ability of DoD to accomplish its objectives.

DI002—Non-Road Vehicle Idling

Comment: DoD recommends that if DEP adopts regulations to restrict non-road vehicle idling that DEP include an exemption for military tactical vehicles. During real world military conflicts, it is imperative that military tactical vehicles be ready to move at a moments notice. Thus, imposing idling restrictions on military tactical vehicles would impair the ability of DoD to accomplish this objective.

For the same reasons mentioned above, non-road idling restrictions should also include an exemption for military ground support equipment. The California Air Resources Board defines military ground support equipment in its Portable Equipment Rule as “...a portable engine that is built to military specifications, owned by the U.S. Department of Defense and/or the U.S. military services, and used in combat, combat support, combat services support, tactical or relief operations, or training for such operation. Examples include, but are not limited to, engines associated with portable generators, aircraft start carts, heaters and lighting carts.”

Military ground support equipment is frequently moved around a base in support of aircraft flightline activities or other military activities. Since military ground support equipment is designed to be deployable and mobile, it is common for it to be mobilized around the world during times of military conflict. Similar to military tactical vehicles, military ground support equipment must be operational at a moments notice. Imposing idling restrictions on military ground support equipment in military operations would hinder DoD's ability to accomplish its military objectives.

DI006—Leveraging Airport Leases to Achieve Reductions from Ground Support Equipment

Comment: If DEP adopts regulations imposing electrification requirements to reduce emissions from ground support equipment, DoD recommends that DEP include an exemption for military ground support equipment. Since military ground support equipment is designed to be deployable and mobile, it is common for the equipment to be mobilized around the world during times of military conflict. Because military ground support equipment is deployable, it is imperative that all like pieces of military ground support equipment be fueled or powered in the same manner. Imposing electrification

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requirements on equipment that is deployed overseas for use during a military conflict would be problematic in instances where the equipment must be used in remote areas. In such instances, which common occur, DoD would not have access to a power source for the military ground support equipment. For these reasons and others, imposing electrification requirements on military ground support equipment would hinder DoD's ability to accomplish its military objectives.

DI011—Opacity Cutpoint Revision

Comment: DoD recommends that if DEP adopts regulations to reduce the maximum permissible smoke opacity levels (cutpoints) for heavy duty diesel vehicles that DEP include an exemption for military tactical vehicles. Military tactical vehicles differ from standard vehicles in that military tactical vehicles are built to military specifications. The reason for this is that military tactical vehicles are used in a manner unlike standard motor vehicles used by the general public in that they are designed specifically to perform in wartime scenarios in all types of environments anywhere in the world. Because military tactical vehicles are deployable for use anywhere in the world, it is imperative that military tactical vehicle engines be consistent in their design and operation and be free from state motor vehicle standards. This ensures consistency in the way military tactical vehicles are operated and maintained. If military tactical vehicles were subject to state motor vehicle standards, then potentially every state could have different standards that would apply to military tactical vehicles in each respective state, which could necessitate the need for engine retrofits and different maintenance schedules and requirements, which would have to be met. In order for DoD to achieve its military objectives in the most efficient manner possible, it is important that all military tactical vehicles remain consistent in their (engine) design and maintenance approach.

It is worth noting that Clean Air Act § 118(c) specifically exempts military tactical vehicles from state and local motor vehicle inspection and maintenance (I&M) programs. Even though I&M programs are different from the focus of white paper DI011 (cutpoint reduction), both I/M programs and the goal of white paper DI011 revolve around, or are associated with, the maintenance of motor vehicles. Thus, it is reasonable to assume that the military tactical vehicle exemption in CAA § 118(c) would be applicable in regards to white paper DI011.

DI012—Light Duty Diesel Vehicle Inspection

Comment: DoD recommends that if DEP adopts regulations to implement a light duty diesel vehicle inspection and maintenance program that that DEP include an exemption for military tactical vehicles. Clean Air Act § 118(c) specifically exempts military tactical vehicles from state and local motor vehicle inspection and maintenance (I&M) programs.

DI013—Medium Duty Vehicle Inspection

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Comment: DoD recommends that if DEP adopts regulations to implement a medium duty vehicle inspection and maintenance program that that DEP include an exemption for military tactical vehicles. Clean Air Act § 118(c) specifically exempts military tactical vehicles from state and local motor vehicle inspection and maintenance (I&M) programs.

HR008—Investigate Changing Subchapter 2 to Decrease the Amount of Open Burning Performed Under Permits in New Jersey **(D) Increase the Fees and Fines Collected for Open Burning**

Comment: Since prescribed burning is conducted to prevent wildfires, to restore and improve forest conditions, to improve the quality and quantity of forage for wildlife and livestock, to control many pests that threaten forested lands, and to improve public access to forested lands, any increase in the fees and fines associated with open burning should exclude prescribed burning.

VOC002—Portable Fuel Container (PFC) Amendments

Comment: If DEP amends its portable fuel container regulations at 7:27-24.8, DoD recommends that DEP clarify whether the term “supply” applies to hazardous material (HAZMAT) pharmacy type operations at military installations to clarify the applicability of the regulations for military installations.

New Jersey's portable fuel container regulations at 7:27-24.8(a) states “Except as provided at N.J.A.C. 7:27-24.2(e), no person shall sell, offer for sale, hold for sale, distribute, *supply*, or manufacture for sale in New Jersey on or after January 1, 2005, any portable fuel container or any portable fuel container and spout which, at the time of sale or manufacture, does not meet all of the following performance standards for spillproof systems” (emphasis added).

In response to the difficulty military installations had with managing hazardous materials, the military services, i.e., the Air Force, the Army, and the Navy, adopted and implemented an innovative approach to managing hazardous materials, including coatings (e.g., paint, etc.) that are used at military installations. The approach establishes a single point of control and accountability over the purchase, receipt and distribution of hazardous materials to the various organizations around a military installation. In the Air Force, for instance, this "single point of control" is called the hazardous material (HAZMAT) pharmacy. HAZMAT pharmacies receive, approve, and process all requests for hazardous materials submitted by the various organizations on an installation. Then, once the materials are ordered, purchased, and obtained by a HAZMAT pharmacy, the HAZMAT pharmacy "supplies" the various organizations with requested amounts of a particular hazardous material for use.

While it is clear that the terms "supplies" and "supplied" would apply to retail distributors and manufacturers, it is unclear whether the term would also apply to HAZMAT pharmacy type facilities at military installations. As mentioned earlier, these facilities

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"supply" the various organizations of a military installation with hazardous materials, including coatings that may be impacted by the proposed rule.

It is recommended, therefore, that DEP amend its portable fuel container regulations at 7:27-24.8 to include a definition for the term "supply" or "supplied" so that military installations with HAZMAT pharmacy type facilities can better determine the extent to which they are impacted by the regulations. For consideration by DEP, DoD proposes the following as a definition for the term "Supply" or "Supplied":

“Supply” or “Supplied” does not include internal transactions within a business or governmental entity. This term only applies to transactions between coating manufacturers/commercial distributors that sell, or otherwise provide, coatings to businesses/governmental entities/individuals."